IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1451 of 2007

K.Kavikumar .. Petitioner

Vs

1. The State of Tamil Nadu
   rep. by its Secretary to Government
   Prohibition and Excise Department
   Fort St.George, Chennai-9.

2. The Commissioner of Police
   Detaining Authority
   Coimbatore City. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.M.N.Balakrishnan
For Respondents: Mr.N.R.Elango
Addl. Public Prosecutor

O R D E R

(Made by P.D.DINAKARAN,J.)

The petitioner, who was incarcerated by order dated 23.3.2007 of the second respondent under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as a Goonda, seeks a writ of Habeas Corpus to call for the records in connection with the order of detention passed in C.No.25/G/IS/2007, to set aside the same and to direct the respondents to produce him, who is now confined at Central Prison, Coimbatore before this Court and set him at liberty.

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2. The ground case, based on which the impugned order of detention was passed, has taken place on 5.3.2007 at about 17.30 hours. At that time, when one Suresh was driving his autorickshaw in front of Vignesh Bakery, near MNG Street, the detenu, who was walking before his auto, signaled to stop the auto. The complainant stopped the auto. Immediately, the detenu snatched Rs.200/- from the shirt pocket of the complainant. When the complainant questioned the same, the detenu took out a knife and caused injury on the left hand and threatened him that he would do away him. On seeing the atrocious activity, the public ran hither and thither to save their lives, resulting in traffic dislocation. A case was registered in Crime No.192/2007 on the file of B8 Variety Hall Road Police Station, for the offence punishable under Sections 392 read with 397 and 506(2), IPC.

3. The second respondent, taking note of the above case as a ground case and four adverse cases in Crime Nos.522/2005, 639/2005 and 118/2007 on the file of B8 Variety Hall Road Police Station for the offence under Sections 380 read with 75, 379, 427 and 506(2), IPC and 75(1)(b) of TNCP Act and in Crime No.588/2005 on the file of B2 R.S.Puram Police Station for the offence under Section 379, IPC , ordered his detention dubbing him as a goonda.

4. The learned counsel for the petitioner, inviting our attention to the fact that the complainant even though had stated the name of the detenu in his complaint, had not chosen to state his name at the time of recording the Accident Register, contends that the impugned order of detention is vitiated on the ground of non application of mind on the part of the detaining authority.

5. A perusal of the entire materials placed before us would reveal that in the FIR, which is found at page No.1 of the booklet, the complainant had mentioned the name of the detenu as Kavikumar. However, in the Accident Register at page No.6 of the booklet, it is mentioned as assault by one unknown person. In our considered opinion, the said discrepancy, apparent on the face of the record, which would disclose the non application of mind by the detaining authority, vitiates the impugned order of detention.

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In view of the above, the order of detention is quashed. The habeas corpus petition is allowed. The detenu is directed to be released forthwith, unless he is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

kpl

To

1. The Secretary to Government
   Prohibition and Excise Department
   Fort St. George, Chennai-600 009.

2. The Commissioner of Police
   Coimbatore City.

3. The Superintendent
   Central Prison, Coimbatore.

4. The Public Prosecutor
   High Court, Madras.

5. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St.George, Chennai -9.

1 cc To Mr.M.N.Balakrishnan, Advocate, SR.72927.

H.C.P.No.1451 of 2007.

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RVL 07.01.2008

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